

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 14406 of the Cosmos Club, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.49 to continue to operate an accessory parking lot in an R-5-B District at premises 2168 and 2156 Florida Avenue, N.W. and 5 Hillyer Court, N.W., (Square 66, Lots 832, 21, 45, 46 and 47).

HEARING DATE: March 19, 1986

DECISION DATE: March 19, 1986 (Bench Decision)

FINDINGS OF FACT:

1. The accessory parking area is generally located in the interior of Square 66, which is bounded by Massachusetts and Florida Avenues, and Q, R and 21st Streets. The premises are known as 2168 and 2156 Florida Avenue N.W. and 5 Hillyer Court, N.W. The parking area is located in the D/R-5-B District.

2. Square 66 is split - zoned, with the SP-1 designation on the southern portion and D/R-5-B on the northern portion. In addition to the Cosmos Club, Square 66 also contains the Indian Chancery, the Phillips Collection, art, nonprofit organization and residential uses. Within a one block radius of the site are diplomatic, institutional, hotel, restaurant, office, residential, art gallery and museum uses.

3. The Cosmos Club is a private club permitted as a matter of right in a D/R-5-B and SP-1 District. It's membership approximates 3,200, of which approximately 1,600 are local members. The Club has an auditorium which accommodates 150 people. It has 5 meeting rooms, 3 dining rooms and 48 transient bedrooms. The Club has daily and monthly activities. The facility is also used for seminars and conferences.

4. Accessory parking for the Cosmos Club was established on this site in 1960 by virtue of BZA Order No. 6129. The use was subsequently continued by the BZA in application Nos. 6605, 7717, 10207, 11746, 11874 and 13279. Under the present application the applicant proposes to continue the use.

5. Access to the parking area is from either the driveway or public alley on Florida Avenue. The vehicular entrances and exits on Florida Avenue are greater than 40 feet from the nearest street intersections, at Florida Avenue and R Street, and at Florida Avenue and Massachusetts Avenue. The total number of spaces on the property is fifty-one (51). Seven (7) of the spaces are reserved for use by the occupants of another building owned by the Cosmos Club at 2164 Florida Avenue. The total area of the lot involved in this application is approximately 12,300 square feet.

6. The parking lot is a surface parking lot, and does not extend above the level of the adjacent finished grade. The parking lot is located entirely within 200 feet of the main Cosmos Club building on Lot 71 in Square 66, the area to which it is accessory, and is separated therefrom by a public alley.

7. All areas devoted to driveways, access lanes and parking areas are paved with materials which form an all-weather impervious surface. Bumper stops have been erected and are maintained by the Club. The parking lot is designed so that no vehicle or part thereof will project over any lot line or building line.

8. No other use is or will be conducted from or upon the parking lot, and no structure other than an attendant's shelter is or will be erected or used upon the premises.

9. All lighting that is used to illuminate the parking lot is arranged so that all direct rays of the lighting are confined to the surface of the parking lot. Employees of the Cosmos Club daily keep the lot free of refuse and debris. The employees also maintain all vegetation in a healthy growing condition and in a neat and orderly appearance.

10 It is economically impracticable and unsafe to locate the parking spaces within the Cosmos Club building or on the same lot on which the Cosmos Club is located. The Cosmos Club is located on Lot 71, which is not the subject of this application. There are 34 spaces on Lot 71 and because of substantial improvements on the lot the applicant has no place in which to locate additional spaces which it requires. Furthermore, Lot 71 has an unusual shape which limits spaces available thereon for accessory parking. The intersection of Florida and Massachusetts Avenue, the southwestern corner of Square 66 creates an acute angle at the southwestern portion of Lot 71. The intersection of Massachusetts Avenue, and Q Street at the southeastern portion of the property creates an acute angle. The lot line then intersects perpendicular with the western lot, Square 66. This produces a trapezoidal shape for the area

on Lot 71 not occupied by the principal building. Thus, the area is unsafe and unusable for parking. Additionally, the intersection of Florida Avenue, Massachusetts Avenue and Q Street create an unsafe condition for exit and entry of vehicles from and to the lot of which the Cosmos Club is located. The proposed parking lot is located north of the Cosmos Club lot, thus allowing automobiles parking thereon to avoid that intersection. Finally, the Cosmos Club is located in an SP-1 District and the Club has exhausted the property that is available to them in that district. All other property is unavailable because it has already been developed. This shallow zoning depth makes it economically impracticable to locate the parking spaces on the same lot with the Cosmos Club building.

11. There is an attendant on duty from 11:30 A.M. to 3:00 P.M. and 5:30 P.M. to 9:30 P.M. on Monday through Saturday and from 11:30 A.M. to 3:00 P.M. on Sunday. More attendants are hired as needed for certain events. The attendants direct a smooth operation of the lots and provide for the safety and security on the property. The applicant has made the parking spaces available for use by the neighbors during the hours that the spaces are not needed for Club use.

12. The D.C. Department of Public Works (DCDPW) reported in writing, dated March 4, 1986, that it had inspected the lot and found it to be in excellent condition. The lot serves the parking needs of the Cosmos Club. DCDPW noted that if the parking lot is discontinued, parking spillover would adversely affect the surrounding neighborhood. DCDPW concluded that it has no objections to the continuation of this use.

13. In a timely filed report, dated March 11, 1986, the Advisory Neighborhood Commission (ANC) 2B voted to approve the application for 5 years. No reasons were cited. At the hearing a representative of the ANC 2B read another report dated March 19, 1986. This report was untimely filed. The report revoked the ANC'S March 11 support of the application. The reason given was the ANC's uniform policy of opposing special exceptions for land zoned residential. A Commissioner from a Single Member District in a letter dated March 17, 1986, urged the approval of the application citing as a reason the need to provide private off street parking in an already congested area.

14. The Board is required by law to give "great weight" to the issues and concerns of the ANC when those issues and concerns are reduced to writing in the form of a report. The first report addressed no issues and concerns for the Board to consider. The second ANC report was untimely filed and the Board did not waive its rules to

receive it into the record. It is not entitled "the great weight". The concerns of a Single Member District are treated just as any other individual witness.

15. The Residential Action Coalition (RAC) voiced their concerns in written form and through a representative at the hearing. The RAC supported the application but with some stipulations: applicant not be allowed to sublet spaces to others; applicant reduce number of spaces; provide minibus service during evening events; two year expiration of permit; halt discrimination against women. The Board finds that the Cosmos Club has operated a parking lot at this site since 1960 with no adverse affect on the neighboring property. The number of spaces including the seven reserved spaces have not had a negative impact on the lot. Also, the Board, finds no persuasive evidence of record that a four year expiration date is not more equitable to assure the operation of the many services of the Cosmos Club. Also, the Board finds that the issue of the minibus service is not a basic concern. The discrimination issue is not properly before the BZA but belongs before another forum.

16. Eighteen (18) letters were filed in support of the application by neighbors of the applicant. The letters pointed out that the parking lots have been in existence for many years and they have had no complaints about the lots. The neighbors note the advantages that the lot provides: added security to the area due to the lighting and routine patrol of the lots by attendants; the lots are cleaner because employees of the Club check for trash continually; the off-street parking the lot provides for an already heavily congested parking area. The letters stressed that if it were not for the parking lots the land would be vacant and become a breeding place for crime.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the applicant is seeking a special exception the granting of which requires that the proposal meet the requirements of Paragraph 3101.49 and the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and the relief will not tend to affect adversely the use of neighboring property.

Paragraph 3101.49 allows for accessory parking lots where: a. Such parking spaces will be in an open area or in an underground garage no portion of which, except for access, extends above the level of the adjacent finished grade, provided in either case they are located in their entirety within 200 feet of the area to which they are accessory; and provided further that they are contiguous to or separated only by an alley from the use to which they are

accessory; b. All provisions of Article 74 regulating parking lots are complied with; c. It is economically impracticable or unsafe to locate such parking spaces within the principal building or on the same lot on which such building or use is permitted because of: strip zoning or shallow zoning depth; restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on such lot; unusual topography grades, shape, size or dimensions of the lot; the lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or, traffic hazards caused by unusual street grades or other conditions; d. Such parking spaces are so located and facilities in relation thereto are so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic or other objectionable conditions; and, e. Before taking final action on an application for such use, the Board shall have submitted the application to the District of Columbia Department of Transportation for review and report.

Accessory parking is permissible in a residential zone if approved by the BZA. Approval comes only after the applicant has met the criteria as listed in the Zoning Regulations. In accordance with the relevant provisions of Paragraph 3101.49 the parking lot is located entirely within 200 feet of the Cosmos Club building and is separated therefrom by a public alley. Both the driveways and parking spaces are paved with materials which form, an all weather impervious surface. Bumper stops have continuously been used. No vehicle or part thereof will project over any lot line or building line. The employees of the Club keep the lot free of debris and maintain the vegetation. The lot is only used for parking and the only structure on the property is an attendant's shelter. The lighting is confined to the surface of the parking lot. It is economically impracticable to locate the parking spaces on the same lot as the Cosmos Club because of the shallow zoning depth, as well as the unusual shape of the lot due to the street intersections. The unusual shape creates a traffic hazard for exit and entry which makes it unsafe for the parking spaces to be located on the Cosmos Club building lot.

The size of the lot is not restricted by adverse adjoining ownership. The lot does not lack an alley or an appropriate ingress on egress through an existing alley or street. The parking lot is located and designed so that it is not likely to become objectionable to adjoining or nearby property because of noise or traffic. The Board concludes that in the application the burden of proof has been met. It is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:


- a. Approval shall be for a period of four years from

the date of expiration of the previous order,  
dated March 27, 1985.

- b. All areas devoted to driveways, access lanes and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- c. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- d. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- e. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
- f. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
- g. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 5-0 (Lindsley Williams, Paula L. Jewell, William F. McIntosh, Charles R. Norris and Carrie L. Thornhill)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:   
EDWARD L. CURRY  
Acting Executive Director

FINAL DATE OF ORDER: AUG 7 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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